

IN RE: PETITION FOR ZONING VARIANCE
SW/Corner Burke & Alburgh Aves.
(119 Burke Avenue)
9th Election District
4th Councilmanic District
John S. Bosson
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 88-517-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit an accessory building (detached garage) in a residential zone with a side yard setback of 0 feet and a rear yard setback of 1 foot in lieu of the required 2 and 1/2 feet for each, and a setback of 8 and 1/2 feet from the center of an alley in lieu of the required 15 feet, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by Counsel, Edward Covehey, Esquire and Thomas Doar, Esquire. There were no protestants.

Testimony indicated that the subject property, known as 119 Burke Avenue, is zoned D.R. 10.5 and is located at the corner of Alburgh Avenue and Burke Avenue. Testimony indicated that due to the size of this corner lot and the location of a large old oak tree, the proposed detached garage cannot be constructed in strict conformance with the setback requirements of the zoning regulations. Testimony and pictures presented evidence that the proposed location is compatible with the location of numerous other detached garages in the neighborhood. The Petitioner further testified as to the practical difficulty and hardship he would suffer if the variances were not granted. The Petitioner testified the garage would be constructed with materials similar to the principal dwelling.

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 to allow a detached garage (accessory building) in a residential zone with a side yard setback of 0' and a rear yard setback of 1' in lieu of the 2 1/2' as required; and section 400.2 to allow an accessory building in a residential zone with a setback of 8' 1/2' from the center of an alley in lieu of 15' as required.

The variances are necessary to preserve the useable portion of the rear yard without them, would be totally lost to the garage.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):
(Type or Print Name) John S. Bosson
Signature: Signature
Address: (Type or Print Name)
City and State: Signature

Attorney for Petitioner:
Anthony J. DiPaula
(Type or Print Name)
Signature: Signature
Address: 119 Burke Avenue
City and State: Towson, Maryland 21204
Phone No. 828-8895

Attorney's Telephone No.: 828-9441
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John S. Bosson
119 Burke Avenue, Towson, MD 21204
Phone No. 828-8895

ORDERED BY The Zoning Commissioner of Baltimore County, this 13th day of June, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 30th day of June, 1988, at 10 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Deputy Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variances would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variances should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of July, 1988 that the Petition for Zoning Variance to permit an accessory building (detached garage) in a residential zone with a side yard setback of 0 feet and a rear yard setback of 1 foot in lieu of the required 2 and 1/2 feet for each, and a setback of 8 and 1/2 feet from the center of an alley in lieu of the required 15 feet, as more particularly described in Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The detached garage shall be constructed with materials similar to the principal dwelling.

ZONING DESCRIPTION

SW/Corner Burke Avenue & Alburgh Avenue

BEGINNING for the same on the southeast side of Burke Avenue at a point distant five hundred and fifty-three and sixty-seven one hundredths feet easterly from the corner formed by the intersection of the southernmost side of Burke Avenue and the easternmost side of Maryland Avenue running thence easterly binding on the south side of Burke Avenue forty-eight and thirty-three one hundredths feet thence extending back southerly at right angles to Burke Avenue of even width and even depth of one hundred and twenty-five feet. The improvements thereon being known as No. 119 E. Burke Avenue, containing 6,041 square feet of land, more or less.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th
Posted for: 14 days
Petitioner: John S. Bosson
Location of property: SW/Corner Burke Ave. & Alburgh Ave.
Location of Sign: 119 Burke Ave.
Remarks: As per zoning regulations
Posted by: J. Robert Haines
Number of Signs: 1
Date of Posting: 6/10/88
Date of return: 6/24/88

3) The Petitioner shall not allow or cause the accessory structure (detached garage) to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

July 14, 1988

Edward Covehey, Esquire
Thomas Doar, Esquire
Covehey & Booser
614 Bosley Avenue
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
SW/Corner Burke and Alburgh Avenues
(119 Burke Avenue)
9th Election District; 4th Councilmanic District
Case No. 88-517-A

Dear Messrs. Covehey and Boar:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN M. NASTAROWICZ
Enclosure
cc: People's Counsel

File

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., June 9, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on June 9, 1988.

THE JEFFERSONIAN,

S. Zafe Orlean
Publisher

\$3.50

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., June 8, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on June 8, 1988.

TOWSON TIMES,

S. Zafe Orlean
Publisher

\$3.35

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353
J. Robert Haines
Zoning Commissioner

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 88-517-A
SM/C Burke Avenue and Algburth Avenue
(119 Burke Avenue)
9th Election District - 4th Councilmanda
Petitioner(s): John S. Bosson
HEARING SCHEDULED: THURSDAY, JUNE 30, 1988 at 10:00 a.m.

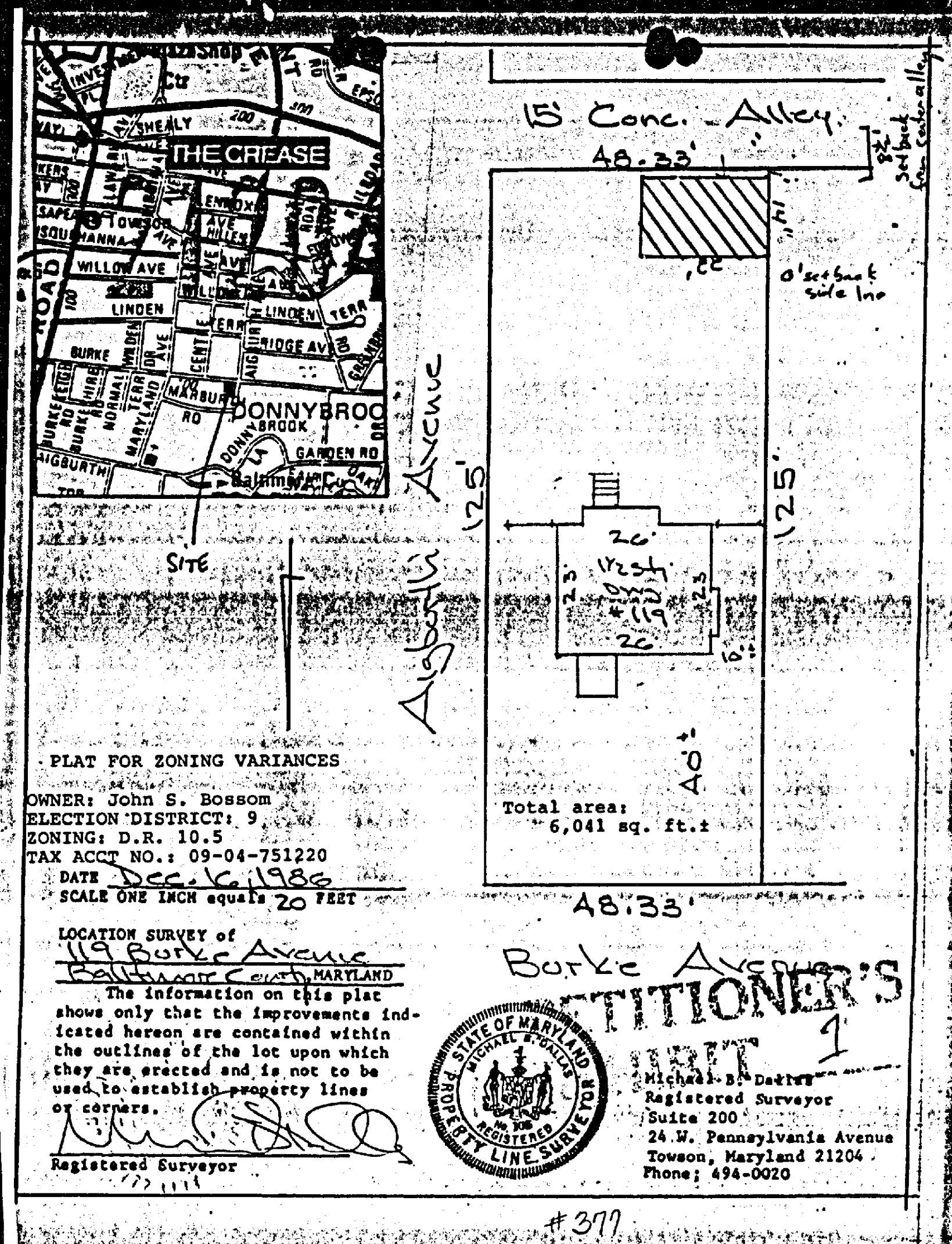
Variance to allow a detached garage (accessory building) in a residential zone with a side yard setback of 0' and a rear yard setback of 1 foot in lieu of the 2 1/2 feet as required and to allow an accessory building in a residential zone with a setback of 5 1/2 feet from the corner of an alley in lieu of the 15 feet as required.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
cc: John S. Bosson
Anthony J. DiPaula, Esq.
File



Dennis F. Rasmussen
County Executive



Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reineke
Chief
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

May 12, 1988

Re: Property Owner: John S. Bosson

Location: SM/C Burke Avenue & Algburth Avenue

Item No.: 377

Zoning Agenda: Meeting of 4/26/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill* Noted and Approved: *John F. O'Neill*
Special Inspection Division Fire Prevention Bureau

/s/

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

May 19, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 374, 375, 376, 377, 378 and 380.

Very truly yours,

Stephen E. Weber
Stephen E. Weber, P.E.
Assistant Traffic Engineer

88-517-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
26th day of April, 1988.

Petitioner: John S. Bosson
Petitioner's Attorney: _____

Received by: *James E. Dyer*
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE RECEIVED ZONING OFFICE
DATE: 5/14/88

TO: J. Robert Haines, Zoning Commissioner

Date: May 12, 1988

FROM: P. David Fields, Director, Office of Planning and Zoning

SUBJECT: Zoning Petitions 88-502-A, 88-510-A, 88-511-A, 88-512-A, 88-513-A, 88-515-A, 88-516-A, 88-517-A, 88-518-A, and 88-519-A

There are no comprehensive planning factors requiring comment on the subject petitions.

P. David Fields
P. David Fields, Director
Office of Planning and Zoning

PDF/jat
cc: Shirley Hess, People's Counsel
J. G. Hoswell
Zoning Office

cc: *Anthony J. DiPaula, Esq.*
CPS-008

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

June 6, 1988

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: Item No. 377 - Case No. 88-517-A
Petitioner: John S. Bosson
Petition for Zoning Variance

Dear Mr. DiPaula:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt
Enclosures

